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DE RUEHSN #2960/01 3521534
ZNR UUUUU ZZH
P 181534Z DEC 06
FM AMEMBASSY SAN SALVADOR
TO RUEHC/DEPT OF LABOR WASHINGTON DC PRIORITY
RUEHC/SECSTATE WASHDC PRIORITY 4680
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE PRIORITY
RUEHGV/USMISSION GENEVA PRIORITY 0427

UNCLAS SAN SALVADOR 002960

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TAGS: [ECON](#) [EIND](#) [ELAB](#) [ES](#) [ETRD](#) [PHUM](#) [SOCI](#)

SUBJECT: EL SALVADOR: 2006 WORST FORMS OF CHILD LABOR
REPORT

REF: STATE 184972

11. SUMMARY: Pursuant to reftel, this cable provides information on the worst forms of child labor in El Salvador. As a country eligible for trade benefits under the Generalized System of Preferences (GSP), El Salvador has implemented steps to eliminate the worst forms of child labor, including the comprehensive USDOL-funded ILO/IPEC Timebound Program. Information is keyed to sections within reftel paragraph #8. END SUMMARY.

22. INCIDENCE AND NATURE OF CHILD LABOR

A) Laws and Regulations Proscribing the Worst Forms of Child Labor:

The Salvadoran Constitution (Article 38.10) prohibits child labor under the age of 14. It also prohibits child labor for older children while they are still receiving compulsory education through the ninth grade. Minors, age 14 or older, may receive special Labor Ministry permission to work, but only where such employment is indispensable to the sustenance of the minor and his or her family. However, according to article 114 of the Labor Code, children aged 12 to 14 can be authorized to perform light work, as long as it does not harm their health and development or interfere with their education. To do so, they may receive special Labor Ministry permission. Children under 16 years of age are prohibited from working more than 7 hours per day, and 34 hours per week. Children under the age of 18 are prohibited from working at night.

El Salvador defines the worst forms of child labor or hazardous work as the ILO defines those terms. Forced or compulsory labor is prohibited by the Constitution, except in cases of public calamity and other cases specified by the law. All forms of slavery or practices similar to slavery are forbidden under a general provision of El Salvador's Constitution (Article 9), as well as under Article 367-B of the Criminal Code. The sale and trafficking of children, debt bondage, and serfdom are specifically penalized in Article 367-B of the Criminal Code. This last reform (Article 367-B) was approved in October 2004, but entered into force in January 2005. Criminal penalties for trafficking range from 4 to 8 years of imprisonment, and increase by one-third if the victim is under the age of 18 years. On April 29, 2006, the Government of El Salvador, through the Ministry of Governance, opened a shelter for victims of trafficking, and as of October, 58 victims had been sheltered. Some were minors, but usually repatriated to their country of origin. As of December 13, twelve victims were sheltered. The Embassy through the INL program

supported this Government of El Salvador shelter financially and logistically through its INL program.

Article 215 of the Salvadoran Constitution authorizes compulsory military recruitment for those between 18 and 30 years old; recruitment of children is not permitted. However, voluntary service can begin at age 16. The use, procurement, or offering of a child for prostitution, for the production of pornography, or for pornographic performances are penalized in Articles 170, 170-A, 172, 173, 173-A, and 173-B. Although the Criminal Code does not criminalize prostitution per se, it penalizes the inducement, facilitation, or promotion of prostitution of a person younger than 18 years old. The Penal Code considers the commercial sexual exploitation of children, trafficking of children, and child pornography forms of organized crime, and provides harsher penalties for such crimes. Article 54 of the law that regulates drug-related activities penalizes the use of a child for illicit activities. Articles 105, 106, and 107 of the Labor Code prohibit types of work that will likely harm the safety or morals of children. In 1999, the Government of El Salvador submitted to the ILO a document identifying hazardous forms of work prohibited for minors under Convention 182 and Convention 138.

Additionally, El Salvador continues to focus on the Timebound Program for identification of the worst forms of child labor: fireworks production, fishing, sugarcane harvesting, commercial sexual exploitation, and garbage-dump scavenging.

B) Regulations for Implementation and Enforcement of Proscriptions Against the Worst Forms of Child labor:

Enforcement of child labor law, when it refers to administrative rather than criminal procedures such as those that derive from trafficking, is the responsibility of the Ministry of Labor, but labor inspectors usually tend to focus on the formal sector where child labor is less frequent, and as a result, few complaints are presented. The 2006-2010 National Plan to Eradicate the Worst Forms of Child Labor places the Ministry of Labor in charge of reviewing, updating, and modernizing the legal framework related to child labor, as well as to increase legal oversight and labor inspections to prevent and eradicate hazardous job conditions. The Civilian National Police (PNC), the Immigration Office, and the Office of the Attorney General (FGR) are the government agencies responsible for enforcing trafficking laws. Administrative complaints presented before the Ministry of Labor, when it refers to child labor violations different from criminal activity such as trafficking, offering a child for pornographic or prostitution services and others. The Ministry of Labor could impose fines. However, if the child labor violation is considered a crime, then the Attorney General Office in conjunction with the National Civilian Police are in charge of enforcing child labor laws. In general, such legal remedies are adequate to punish violations but it may be difficult to deter them, due to Salvadoran economic, cultural and social conditions, which can not be addressed merely through legal remedies. The Ministry of Labor invests USD \$107,200 annually in the investigation of child labor cases. This amount covers salaries, transportation and meal allowances.

The Ministry of Labor has 163 labor inspectors distributed in different regions and departments, 24 of whom work specifically on child labor issues. During the year, the Government of El Salvador concentrated on monitoring and inspection of sugarcane plantations, with the following results:

Special inspections: 10

Programmed inspections: 36

Re-Inspections: 6

Monitoring: 202

Number of workers who were covered by these inspections: 9,755

Number of children who were removed from child labor: 149

Awareness campaigns: 33 which covered 13,287 workers

The Ministry of Labor imposed three fines during 2006. In 2006, the Attorney General prosecuted 35 cases of trafficking, and in 4 cases there were adjudications that involved 7 traffickers. Traffickers received sentences of 3 to 20 years imprisonment.

During 2006, the Ministry of Labor in conjunction with the ILO trained and provided awareness training, including prevention of child labor, combating child labor, and re-insertion of children, as follows:

- 102 inspectors for elimination of child labor. (The training program included domestic and international legislation such as ILO Conventions 138, 182, 77 and 78.)
- 60 PNC agents of the trafficking and alien smuggling division, 280 officers, 21 agents of the prevention unit, and 1800 agents from other units. (Also, in coordination with the National Academy of Public Security, 62 new PNC agents were trained on child labor issues.)
- 75 psychologists of the Ministry of Education.
- 90 employers of the National Institute for Women's Development (ISDEMU)
- 90 judges
- 145 agents of the Immigration Directorate

Also, the Salvadoran Sugar Producers Association (FUNDAZUCAR), Coca Cola Company, and Telefonica company have, as part of their social responsibility programs, sponsored public awareness campaigns against child labor in sugarcane plantations.

C) Social Programs to Prevent and Withdraw Children from the Worst Forms of Child Labor:

The Ministry of Labor, in coordination with the ILO, conducted social programs to prevent and withdraw children from the worst forms of child labor including:

- Academic reinforcement post-regular classes (Salas de Nivelaci"n), to prevent children from engaging in exploitative work situations. From October 2003 to August 2005, a total of 10,909 children received these classes.
- Vocational training for children: From October 2003 to August 2005, a total of 2,788 children received such training.
- Psychological counseling: From October 2003 to August 2005, a total of 294 children received counseling.
- Health Services: From October 2003 to August 2005, a total of 1,368 children and 618 parents received health services.
- Nutrition Services: From October 2003 to August 2005, a total of 4,946 children received nutrition services.
- School Materials: From October 2003 to August 2005, a total of 29,337 children received school supplies.
- Other services: From October 2003 to August 2005, a total of 5,935 children participated in the "Dreaming to Become" program. Under this program, at-risk children and adolescents explore what it would be like to become a nurse, teacher, doctor, firefighter, etc.
- Vocational training for parents: From October 2003 to August 2005, a total of 1,857 parents received vocational training.
- Literacy training: From October 2003 to August 2005, a total of 914 parents received literacy training.

In addition, the 2005-2009 "Solidarity Net" national anti-poverty program, which aims to reduce extreme poverty and benefits 100,000 families of the poorest municipalities of the country, assists in withdrawing children from work activities.

Other projects, such as the IDB's four-and-a-half-year Social Peace Program Support Project, target 200,000 children and adolescents, operating in municipalities with the highest rates of crime affecting young people--both as victims and offenders. The project includes provision of services to child victims of violence, efforts to prevent violence among adolescents, and efforts to rehabilitate young offenders

through job-training scholarships and enhancement of the educational system.

Article 56 of the Salvadoran Constitution establishes that education is free and compulsory through the 9th grade. A September 2006 DOL-sponsored MOL publication titled "Advances in the Elimination of Child Labor in El Salvador, 2005-2006", established that, according to the Ministry of Education's 2004-2005 school attendance census, approximately 15 percent of students between 5 and 17 years old work. Children from 10 to 15 years old in rural areas are most likely to work. For every working girl, there are 2.33 working boys. However, girls' work is usually less visible, because of girls' employment in households, which the girls' families often do not consider child labor. The Ministry of Education also reported that the proportion of children who attend school but also work had decreased 25.7 percent during 2004-2005, in part because of awareness programs on this subject. (Note: In 2004, 14.5 percent of children (235,528) attended school and worked, while in 2005, only 10.7 percent (175,108) did so. End note.)

Although laws prohibit impeding children's access to schools for being unable to pay school fees or wear uniforms, some school continued to charge school fees to cover budget shortfalls.

D) Comprehensive Policy Aimed at the Elimination of the Worst Forms of Child Labor:

On September 20, The Government of El Salvador launched its first National Plan for the Elimination of the Worst Forms of Child Labor. The Ministries of Labor, Education, Health, Agriculture, Foreign Affairs, Tourism, Governance, Economy, and the National Secretariat for the Family, the National Secretariat for Youth, the National Institute for the

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Development of Children and Adolescents (ISNA), in conjunction with the Small and Medium Enterprises Committee, the National Superior Labor Council, the National Round Table Against Sexual Commercial Exploitation, and the National Committee For the Elimination of the Worst Forms of Child Labor, joined efforts with the ILO/IPEC International Program on the Elimination of Child Labor to launch a four-year national plan to eliminate the worst forms of child labor. The plan aims to continuously reduce at least 10% of the targeted population of 288,221 children from 5 to 17 years old who work.

The general principles of the plan are to promote gender equity; a culture of lawfulness; involvement of parents, children, and employers; and empowerment of community and families relating to child labor. This global strategy includes, among other things, strengthening governmental capacity to assume the plan's responsibilities effectively and efficiently, and promoting international cooperation. The strategic areas involve strengthening the legal and institutional framework, education and health care, culture and sports, and increasing family income and public awareness campaigns. The Plan will be presented to the international community and donors during the next month. The Plan's initial steps include a budget of USD \$27,720.

The Government has made public statements and commitments to eradicate the worst forms of child labor on several occasions. The most significant public statement occurred during the launching of the National Plan, which was attended by high-level officials from all relevant ministries, as well as the First Lady.

E) Country's Continual Progress Toward Eliminating the Worst Forms of Child Labor:

Nature: El Salvador defines child labor as any economic activity (according to the National Accounting System of the United Nations) performed by children between 5 and 17 years old. However, not all economic activity can be considered as

exploitative work. This definition of child labor does not include domestic households, which are non-economic activities. In spite of that, the consequences and implications of domestic household work performed by children are similar to that of child labor.

Magnitude: An estimated 10.2 percent of children ages 5-14 were counted as working in El Salvador in 2003. Approximately 13.7 percent of all boys 5 to 14 were working, compared to 6.5 percent of girls in the same age group. The majority of working children were found in the agricultural sector (51.2 percent), followed by services (35.3 percent), manufacturing (12.4 percent), and other (1.1 percent).
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